

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FERNANDO C. VIDAURRI, JR.,
JEFFREY S. FODER and
JON F. GEIBEL

Appeal 2006-1660
Application 10/609,087
Technology Center 1700

Decided: December 6, 2006

Before KIMLIN, TIMM, and JEFFREY T. SMITH, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellants' request a rehearing of our Decision of June 9, 2006, wherein we affirmed the Examiner's prior art rejections of the appealed claims. However, Appellants only request rehearing of our affirmance of claims 68 and 71 under § 103 over Campbell in view of Koyama, and the

Examiner's rejections of claim 71 under § 102/§103 over Campbell alone. Claims 68 and 71 are dependent claims which recite that "lithium halide is not added to the vessel" (claim 68), and "a lithium halide is not added to the sulfur source, to the solution, or to the mixture" (claim 71). According to Appellants, "[t]he Board overlooked the fact that the Examiner did not point to any passage in Campbell or Koyama that would anticipate or render obvious the subject matter described herein separately recited in claims 68 and 71" (page 2 of Request, second paragraph).

Appellants' request for the Board to reconsider the Examiner's prior art rejections of claims 68 and 71 is untimely. Neither Appellants' principal or Reply Briefs on appeal advanced any substantive argument concerning the nonobviousness of not adding lithium halide to the vessel, the sulfur source, the solution or the mixture in light of the Campbell disclosure, considered alone or in view of Koyama. It is well settled that arguments not advanced in the Brief are abandoned. While Appellants make reference to pages 6, 9, and 10 of the principal Brief, page 6 simply restates the limitations of claims 68 and 71, whereas page 9 only offers the conclusory remark that "the Senga, Campbell, and Koyoma [sic, Koyama] references cited by the examiner in the Final Office Action, whether taken alone or in combination, do not teach or suggest the features recited in claims 68 and 71" (page 9, last paragraph). Such a remark is not tantamount to the requisite substantive argument explaining why the claimed recitation would not have been obvious to one of ordinary skill in the art in view of the prior art disclosure. In any event, our review of Campbell finds no teaching that lithium halide must be added to the recited vessel or to the reaction contents. Indeed, Examples I and II make no mention of a lithium halide.

Appeal 2006-1660
Application 10/609,087

In conclusion, based on the foregoing, we have granted Appellants' request to the extent that we have reconsidered our affirmance of the Examiner's prior art rejections of claims 68 and 71, but we deny Appellants' request to overturn the Examiner's rejections of claims 68 and 71.

DENIED

cam

John M. Rariden
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289